

AMENDED IN SENATE APRIL 25, 2011

AMENDED IN SENATE MARCH 24, 2011

**SENATE BILL**

**No. 857**

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**Introduced by Senator Lieu**

February 18, 2011

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~~An act to amend Section 1393.5 of the Labor Code, relating to employment. An act to add Section 3333.6 to the Civil Code, relating to civil damages.~~

LEGISLATIVE COUNSEL'S DIGEST

SB 857, as amended, Lieu. ~~Employment of minors: agricultural packing plants. Civil damages.~~

*Existing law provides that for the breach of an obligation arising from contract, the measure of damages is the amount which will compensate the party aggrieved for all the detriment proximately caused thereby, or which, in the ordinary course of things, would be likely to result therefrom, except as specified. Existing law provides that the measure of damages for a breach of an obligation not arising from contract is the amount that will compensate for all the detriment proximately caused.*

*This bill would prohibit a person, in any action to recover damages due to an unlawful strike, from recovering damages resulting from expenses incurred by the employer in anticipation of, or in preparation for, the strike. The bill would define "unlawful strike" as any strike that has been determined unlawful by the Public Employment Relations Board.*

~~Existing law prescribes limits on the hours of employment of minors, but authorizes the Labor Commissioner to grant an exemption to employers operating agricultural packing plants for employment of~~

minors 16 and 17 years of age for up to 10 hours on days when school is not in session, during the peak harvest season. Under existing law, which will be repealed January 1, 2012, that exemption may additionally authorize employment of a minor who is enrolled in a school in Lake County to be employed for more than 48, but not more than 60, hours a week upon prior written approval by the Lake County Board of Education. Existing law requires the Labor Commissioner to report annually to the Legislature regarding the working conditions of minors employed in the agricultural packing industry.

This bill would extend the operation of the Lake County exemption and the requirement that the Labor Commissioner report annually until January 1, 2014.

Vote: majority. Appropriation: no. Fiscal committee: ~~yes~~-no. State-mandated local program: no.

*The people of the State of California do enact as follows:*

1     SECTION 1. Section 3333.6 is added to the Civil Code, to read:  
2     3333.6. (a) In any action to recover damages due to an  
3     unlawful strike, a person shall not recover damages resulting from  
4     expenses incurred by the employer in anticipation of, or in  
5     preparation for, the strike.  
6     (b) For the purposes of this section, “unlawful strike” means  
7     any strike that has been determined unlawful by the Public  
8     Employment Relations Board.  
9     SECTION 1. ~~Section 1393.5 of the Labor Code is amended to~~  
10    ~~read:~~  
11    ~~1393.5. (a) Notwithstanding any other provision of this article~~  
12    ~~or Article 2 (commencing with Section 49110) of Chapter 7 of~~  
13    ~~Part 27 of Division 4 of Title 2 of the Education Code, an~~  
14    ~~exemption issued pursuant to Section 1393 may authorize the~~  
15    ~~employment during the peak harvest season of a minor, 16 or 17~~  
16    ~~years of age who resides in Lake County, during any day in which~~  
17    ~~school is not in session for up to 10 hours per day and more than~~  
18    ~~48 hours but not more than 60 hours in any one week, only upon~~  
19    ~~the prior written approval of the Lake County Office of Education.~~  
20    ~~(b) Each year, the Labor Commissioner, prior to issuing or~~  
21    ~~renewing an exemption under this section, shall inspect the affected~~  
22    ~~agricultural packing plant.~~

1     ~~(e) As a condition of receiving an exemption or a renewal of an~~  
2 ~~exemption under this section, an affected employer shall, on or~~  
3 ~~before March 1 of each year, file a written report to the Labor~~  
4 ~~Commissioner that contains the following employment information~~  
5 ~~regarding the employer's prior year's payroll:~~

6     ~~(1) The number of minors employed by that employer.~~

7     ~~(2) A list of the age and hours worked on a weekly basis of each~~  
8 ~~minor employed.~~

9     ~~(d) Notwithstanding Chapter 24 (commencing with Section~~  
10 ~~7550) of Division 7 of Title 1 of the Government Code, the Labor~~  
11 ~~Commissioner shall submit a written report to the Legislature, on~~  
12 ~~or before March 1 of each year, that describes the general working~~  
13 ~~conditions of minors employed in the agricultural packing industry~~  
14 ~~during the past year, and that includes all of the following~~  
15 ~~information:~~

16     ~~(1) The number of minors employed in the agricultural packing~~  
17 ~~industry.~~

18     ~~(2) The number of exemptions issued, renewed, or denied~~  
19 ~~pursuant to this section.~~

20     ~~(3) A summary of the inspections conducted by the Labor~~  
21 ~~Commissioner pursuant to this section.~~

22     ~~(4) The number of workplace injuries that occurred to minors~~  
23 ~~at agricultural packing plants.~~

24     ~~(5) The number of violations of labor laws and regulations that~~  
25 ~~occurred at agricultural packing plants.~~

26     ~~(e) This section shall remain in effect only until January 1, 2014,~~  
27 ~~and as of that date is repealed.~~